

patents, Fuke 6,011,929 in the unrelated field of photographic flash lamps (col. 2, lines 10-14); and Szymanek 4,891,737 in the unrelated field of a lens body for recessed fluorescent fixtures (Col. 1, lines 6-16).

### **DETAILED RESPONSE TO THE OFFICE ACTION**

1) The examiner indicates the allowability of claim is withdrawn in view of the newly discovered reference(s) to Fuke and Szymanek.

2) The examiner's rejection is based on prior art on which the present invention "would be obvious to one having ordinary skill in the art to which the subject matter pertains"... and that subject matter is track lighting. However, the examiner asserts that the present invention for a tracklight system would be obvious in view of a patent for a lens for a recessed fluorescent light fixture.

3) The examiner states the recitation of "a track light" is not given patentable weight because it appears in the preamble. It is true the term "tracklight" does appear in the preamble, as well as the title (required by CFR 37 §1.72 (a), and in the abstract as required by §1.72 (b). **(attachment 5) The claims term "tracklight" also appears in 22 places in the specification.**

CFR §1.75 (d)(1) **(attachment 6)** requires that the claims "must conform to the invention as set forth in the specification and in the terms and phrases in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description."

Then §1.75 (e) states: "Where the nature of the case admits, as in the case of an improvement, any independent claim should contain in the following order: (1) A preamble comprising a general description of all the elements or steps in the claimed combination which are conventional or known."

Obviously, tracklights are known as lighting systems that are clearly differentiated from other generic lighting components. Tracklights (track

lights or lighting tracks) are defined in the *Webster's college Dictionary* as: "an interior lighting system using spotlight fixtures along an electrified track attached to a wall or ceiling." Then the *Handbook of the Illuminating Engineering Society of North America* (in which the applicant has been a member for 40 years, and has lectured at the national conference) defines lighting track as follows: "This refers to a system that includes luminaires and a track or rail that is designed to provide both mounting and deliver electrical power." (**attachment 7**)

Claim 1 includes the language: "A tracklight in the form of an elongated tube.....and one or more light sources (8) positionable along the length of tube"... Thus the present invention is clearly a tracklight by universally recognized authorities.

#### **ANALYSIS OF SZYMANEK**

Conversely, the Szymanek '737 lens apparatus is for a recessed fluorescent fixture. **The term "lens" appears in the Szymanek patent in 22 places**, in the title, specification, claims and abstract.

Szymanek is not a tracklight;

Szymanek does not have the form of an elongated tube;

Szymanek does not have a reflector extending along the tube;

Szymanek does not have reflector portions joined at an apex;

Szymanek does not have light sources positionable along its length;

Szymanek is a lens with a removable diffuser... and nothing more, and is unrelated to the field of tracklights.

#### **ANALYSIS OF FUKU**

Again, claim 1 of the present invention includes the language: "A tracklight in the form of an elongated tube.....and one or more light sources (8) positionable along the length of tube"...

Fuku does not have a tubular shape, but is a rectangular box;

Fuku does not have light sources positionable along its length; but only

one “bar-like light source”, cited in the specification 40 times and is the only light source claimed, with 9 claims citations.

Fuke does not have an angular reflector extending along the length of a tube, or an angular diffuser joined to the reflector at its distal edges.

Fuke does not have the form of an elongated tube, but has a reflector with a concave cross sectional shape and a concave longitudinal shape, as seen in applicants patent 3,652,848 ( Attachment 8) with a flat (not angular) Fresnel lens as seen in Figures 1, 2A, 5A, 6, 7A, 8, 9A and 12. There is no novelty in using a Fresnel lens, as it was invented by Augustin Fresnel in 1820. Further, **Fuke cites the term “flash apparatus” 33 times in the specification, plus 11 more times in the claims; a total of 44 citations.** Thus the Fuke patent is clearly unrelated to the field of tracklights.

### **CONCLUSION**

The applicant believes that neither of the examiner’s newly discovered references, taken separately or together, anticipates the previously allowed claim 1. However, once again, in the interest of expediting this application to issue, the applicant submits a further amended claim 1 as follows:

#### **Claim 1:**

1. A tracklight (1, 11, 21) in the form of an elongated tube (2, 22, 32) including:

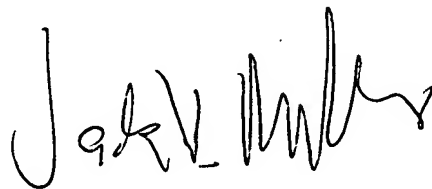
a) a reflector (4, 14, 24) extending along the length of said tube and having angularly disposed portions proximally joined at an apex on an optical axis of symmetry, said angularly disposed portions having distal edges;

- b) a diffuser (5, 15, 25) extending for the length of said tube and having angularly disposed proximal portions terminating in distal edges engaged with said distal edges of the reflector;
- c) a lens (7, 17, 27) extending between the distal edges of the diffuser, and separating the reflector from the diffuser; and
- d) ~~one or more~~ a plurality of light sources (8) positionable along the length of the tube between the reflector and lens, emitting light through the lens and diffuser, generally perpendicular to the length of the tube.

The applicant believes that this application is once again ready for allowance and issue. It applies to a successful product that is currently being manufactured and sold nationally by my company. In the event that the examiner does not allow claims 1-10 at this time the applicant requests an interview with the examiner and her supervisor to resolve any possible questions that might delay issuance.

Respectfully submitted

Jack V. Miller - Applicant



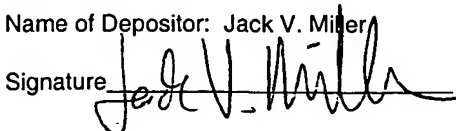
CERTIFICATE OF MAILING

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Name of Depositor: Jack V. Miller

Date of Deposit 12/27/2007

Signature



Date of Signature



**DETAILED ACTION**

***Claim Objections***

1. Claim 1 is objected to because of the following informalities: The language with reference to the distal edges of the reflector and diffuser is claimed in a manner that is unclear in particular to the relationship between both distal edges of the diffuser and reflector respectively. The following claim language is suggested "a diffuser extending for the lengths of said tube and having angularly disposed proximal portions terminating in distal edges engaged with said distal edges of the reflector . Appropriate correction is required.

***Allowable Subject Matter***

2. Claims 1-10 are allowed.
3. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited of record does not anticipate individually nor teach in combination the limitations in claim 1, in particular the structural relationship between the lens, diffuser and reflector..

***Conclusion***

4. This application is in condition for allowance except for the following formal matters:

As stated above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

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Sep 25 07 03:58p DESIGN TECHNOLOGY CORP / 3026289932 p.1

APPLICANTS: Jack V. Miller and Ruth Ellen Miller  
SERIAL NUMBER: 10/656/718  
FILING DATE: 09/08/2003  
EXAMINER: Andrew M. Ton  
TITLE: TRACKLIGHT SYSTEM  
DATE OF THIS RESPONSE: 09/26/07

Response to Office Action mailed Sept 21, 2007

Amended claim 1 per Examiner's suggestion (added material underlined):

1. A tracklight (1, 11, 21) in the form of an elongated tube (2, 22, 32) including:  
a) a reflector (4, 14, 24) extending along the length of said tube and having  
irregularly disposed portions proximally joined at an apex on an optical axis of  
symmetry, said angularly disposed portions having distal edges;  
b) a diffuser (5, 15, 25) extending for the length of said tube and having  
irregularly disposed proximal portions terminating in distal edges engaged with  
said distal edges of the reflector;  
c) a lens (7, 17, 27) extending between the distal edges of the diffuser, and  
separating the reflector from the diffuser; and  
d) one or more light sources (8) positionable along the length of the tube  
between the reflector and lens, emitting light through the lens and diffuser,  
generally perpendicular to the length of the tube.

The Office Action indicates the above amendment will make this  
application in condition for allowance at this time. Please note the correct  
address below, as previous letters (like the attached Notice of Publication) show  
the Applicants' address to be in GERMANY.

Sincerely,  
Jack V. Miller  
20915 Sussex Hwy  
Seaford, Delaware, 19973

APPLICANTS: Jack V. Miller and Ruth Ellen Miller  
SERIAL NUMBER: 10/656/718  
FILING DATE: 09/08/2003  
EXAMINER: Anabel M. Ton  
TITLE: TRACKLIGHT SYSTEM  
DATE OF THIS RESPONSE: 09/26/07

**Response to Office Action mailed Sept 21, 2007**

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  - b) a diffuser (5, 15, 25) extending for the length of said tube and having angularly disposed proximal portions terminating in distal edges engaged with said distal edges of the reflector;
  - c) a lens (7, 17, 27) extending between the distal edges of the diffuser, and separating the reflector from the diffuser; and
  - d) one or more light sources (8) positionable along the length of the tube between the reflector and lens, emitting light through the lens and diffuser, generally perpendicular to the length of the tube.

The Office Action indicates the above amendment will make this application in condition for allowance at this time. Please note the correct address below, as previous letters (like the attached Notice of Publication) show the Applicants' address to be in GERMANY.

Sincerely,

Jack V. Miller   
20915 Sussex Hwy  
Seaford, Delaware, 19973

**DETAILED ACTION**

1. The indicated allowability of claim 1 is withdrawn in view of the newly discovered reference(s) to Fuke et al in further view of Szymanek. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuke et al (6,011,929) and further in view of Szymanek (4,891,737).

3. The recitation "a track light" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

4. Fuke et al discloses a reflector (2) extending along the length of said tube and having angularly disposed portions proximally joined at an apex on an optical axis of symmetry, said angularly disposed portions having distal edges(end portions of 2);a first



(7-1-07 Edition)

(s). The content of the specification shall be limited to only that required by law. For example, "Doe" (17 U.S.C. 1009) and "Doe" (17 U.S.C. 1009) are not permitted and, under the provisions of the Copyright Act, reproduction of a copyright or other right in the Patent and Trademark Office file or records, but not the copyright or mask work, shall be permitted.

on shall read as

losure of this patent application which is subject to (b)(3) protection. The applicant owner has no obligation to reproduce by any means the patent application in the Patent and Trademark Office file or records, but not the copyright or mask work, shall be permitted.

a must commence with the first sheet. Each sheet including the specification may not exceed 150 words. The claim(s), abstract, and listing (if any) shall be on a separate sheet in the application.

tion may disclose the names of the parties to the joint research agreement (2)(C)).

under paragraph 1.75, the fee must be accompanied by the fee set forth in the fee schedule within one of the following:

s:  
months of the filing date of the application;

months of the date of the international stage as set forth in the international application;

ling of a first Office action; or

ling of a first Office action; or  
filing of a request for examination under

t under paragraph 1.75, the fee must be accompanied by the fee set forth in the fee schedule within one of the following:

date the issue fee is paid, the patent as issued may not necessarily include the names of the parties to the joint research agreement. If the patent as issued does not include the names of the parties to the joint research agreement, the patent must be corrected to include the names of the parties to the joint research agreement by a certificate of correction under 35 U.S.C. 255 and § 1.323 for the amendment to be effective.

[24 FR 10332, Dec. 22, 1959, as amended at 53 FR 47808, Nov. 28, 1988; 58 FR 38723, July 20, 1993; 68 FR 38628, June 30, 2003; 70 FR 1823, Jan. 11, 2005; 70 FR 54266, Sept. 14, 2005]

### § 1.72 Title and abstract.

(a) The title of the invention may not exceed 500 characters in length and must be as short and specific as possible. Characters that cannot be captured and recorded in the Office's automated information systems may not be reflected in the Office's records in such systems or in documents created by the Office. Unless the title is supplied in an application data sheet (§ 1.76), the title of the invention should appear as a heading on the first page of the specification.

(b) A brief abstract of the technical disclosure in the specification must commence on a separate sheet, preferably following the claims, under the heading "Abstract" or "Abstract of the Disclosure." The sheet or sheets presenting the abstract may not include other parts of the application or other material. The abstract in an application filed under 35 U.S.C. 111 may not exceed 150 words in length. The purpose of the abstract is to enable the United States Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure.

[65 FR 54667, Sept. 8, 2000, as amended at 65 FR 57054, Sept. 20, 2000; 68 FR 38628, June 30, 2003]

### § 1.73 Summary of the invention.

A brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, should precede the detailed description. Such summary should, when set forth, be com-

mensurate with the invention as claimed and any object recited should be that of the invention as claimed.

### § 1.74 Reference to drawings.

When there are drawings, there shall be a brief description of the several views of the drawings and the detailed description of the invention shall refer to the different views by specifying the numbers of the figures and to the different parts by use of reference letters or numerals (preferably the latter).

### § 1.75 Claim(s).

(a) The specification must conclude with a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention or discovery.

(b) More than one claim may be presented provided they differ substantially from each other and are not unduly multiplied.

(c) One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. For fee calculation purposes under § 1.16, a multiple dependent claim will be considered to be that number of claims to which direct reference is made therein. For fee calculation purposes also, any claim depending from a multiple dependent claim will be considered to be that number of claims to which direct reference is made in that multiple dependent claim. In addition to the other filing fees, any original application which is filed with, or is amended to include, multiple dependent claims must have paid therein the fee set forth in § 1.16(j). Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered.

(d)(1) The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. (See § 1.58(a).)

(2) See §§ 1.141 to 1.146 as to claiming different inventions in one application.

(e) Where the nature of the case admits, as in the case of an improvement, any independent claim should contain in the following order:

(1) A preamble comprising a general description of all the elements or steps of the claimed combination which are conventional or known,

(2) A phrase such as "wherein the improvement comprises," and

(3) Those elements, steps and/or relationships which constitute that portion of the claimed combination which the applicant considers as the new or improved portion.

(f) If there are several claims, they shall be numbered consecutively in Arabic numerals.

(g) The least restrictive claim should be presented as claim number 1, and all dependent claims should be grouped together with the claim or claims to which they refer to the extent practicable.

(h) The claim or claims must commence on a separate physical sheet or electronic page. Any sheet including a claim or portion of a claim may not contain any other parts of the application or other material.

(i) Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation.

(35 U.S.C. 6; 15 U.S.C. 1113, 1126)

[31 FR 12922, Oct. 4, 1966, as amended at 36 FR 12690, July 3, 1971; 37 FR 21995, Oct. 18, 1972; 43 FR 4015, Jan. 31, 1978; 47 FR 41276, Sept. 17, 1982; 61 FR 42803, Aug. 19, 1996; 68 FR 38628, June 30, 2003; 70 FR 3891, Jan. 27, 2005]

#### § 1.76 Application data sheet.

(a) *Application data sheet.* An application data sheet is a sheet or sheets, that may be voluntarily submitted in either provisional or nonprovisional applications, which contains bibliographic data, arranged in a format

specified by the Office. An application data sheet must be titled "Application Data Sheet" and must contain all of the section headings listed in paragraph (b) of this section, with any appropriate data for each section heading. If an application data sheet is provided, the application data sheet is part of the provisional or nonprovisional application for which it has been submitted.

(b) *Bibliographic data.* Bibliographic data as used in paragraph (a) of this section includes:

(1) *Applicant information.* This information includes the name, residence, mailing address, and citizenship of each applicant (§ 1.41(b)). The name of each applicant must include the family name, and at least one given name without abbreviation together with any other given name or initial. If the applicant is not an inventor, this information also includes the applicant's authority (§§ 1.42, 1.43, and 1.47) to apply for the patent on behalf of the inventor.

(2) *Correspondence information.* This information includes the correspondence address, which may be indicated by reference to a customer number, to which correspondence is to be directed (see § 1.33(a)).

(3) *Application information.* This information includes the title of the invention, a suggested classification, by class and subclass, the Technology Center to which the subject matter of the invention is assigned, the total number of drawing sheets, a suggested drawing figure for publication (in a nonprovisional application), any docket number assigned to the application, the type of application (e.g., utility, plant, design, reissue, provisional), whether the application discloses any significant part of the subject matter of an application under a secrecy order pursuant to § 5.2 of this chapter (see § 5.2(c)), and, for plant applications, the Latin name of the genus and species of the plant claimed, as well as the variety denomination. The suggested classification and Technology Center information should be supplied for provisional applications whether or not claims are present. If claims are not present in a provisional application,

the suggested Technology Center disclosure.

(4) *Representation information.* number of power of (preferably number). the applicant constitute application

(5) *Domestic information.* number, including and relationship which a U.S.C. 11 providing the information data reference 120, and need not specify

(6) *Foreign information.* number, each foreign priority is claimed applicability that of the priority is information constituted required by

(7) *Assignment information.* or jurist assignee interest this information data sheet compliance of this recorded

(c) *Sheets.* sheets:

(1) *Minor prior to* prior to to correct previous sheet, c § 1.63 or changes respond § 1.33(a) govern

**Track.** This refers to a system that includes luminaires and a track or rail that is designed to both provide mounting and deliver electric power (Figure 7-19). Track is generally made of linear extruded aluminum, containing copper wires to form a continuous electrical raceway. Some varieties can be joined or cut, and others set into a variety of patterns with connectors. Track is available in line or low-voltage, with remote transformers available for the low-voltage equipment.

Track can be mounted at or near the ceiling surface, recessed into the ceiling with special housing or clips, or mounted on stems in high-ceiling areas. It also can be used horizontally or vertically on walls. Mechanical considerations may limit certain mounting arrangements, particularly for wall-mounted installations. Track can be hardwired at one end or anywhere along its length. Flexibility can be added with a cord-and-plug assembly to supply power rather than with hardwiring.

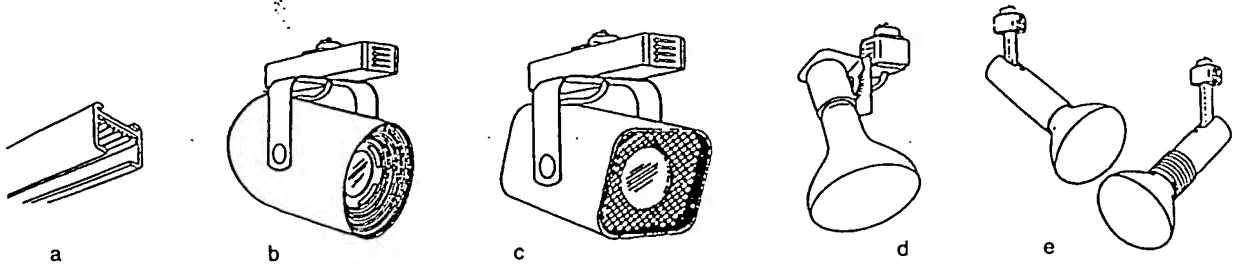
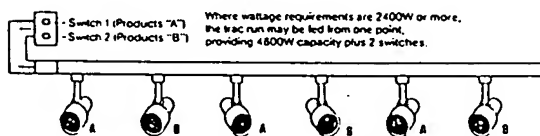


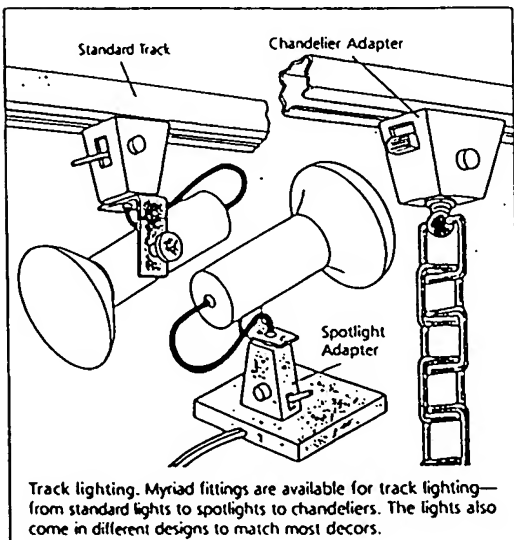
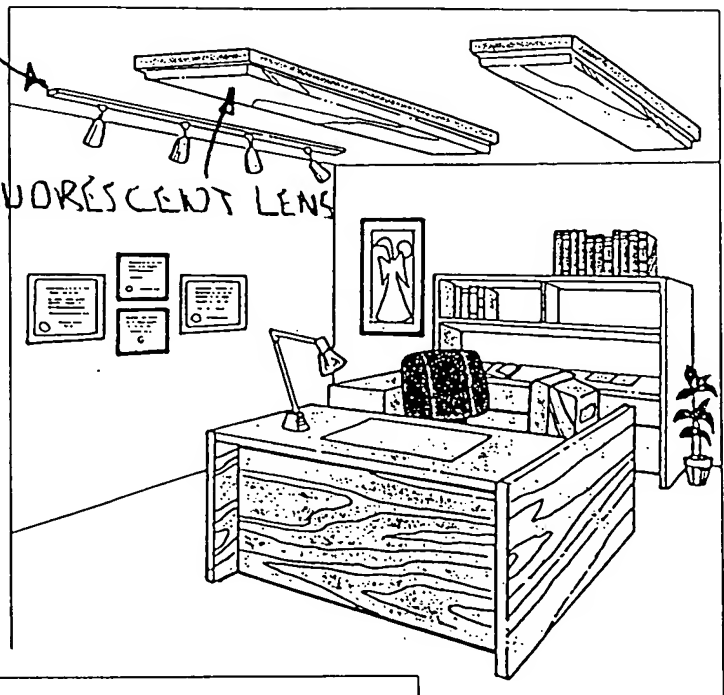
Figure 7-19. Examples of track luminaires: (a) close-up of multicircuit track, (b) and (c) track-mounted luminaires with optical control, and (d) and (e) track luminaires for holding and aiming lamps.

## TRACK LIGHT

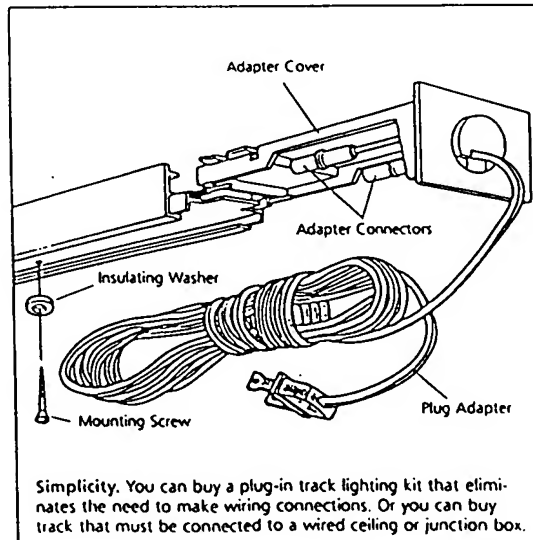
track-ing (trak'ing), *n.* TRACK SYSTEM.  
 track-ing shot/, *n.* a camera shot taken from a moving dolly.  
 track-ing station, *n.* a facility with equipment for following the flight of a rocket or spacecraft. [1960-65]  
 track/ light-ing, *n.* an interior lighting system using spotlight fixtures along an electrified track attached to the wall or ceiling.  
 track-man (trak'man), *n.* an athlete on a track team.  
 track/ meet/, *n.* a series of athletic contests such as running and jumping, usu. including most track-and-field events. [1900-05]  
 track-pad (trak'pad/), *n.* TOUCHPAD. [1990-95]  
 track/ rec'ord, *n.* a record of achievements or performance.  
 track/ shoe/, *n.* a light, heelless, usu. leather shoe with steel spikes or a rubber sole, worn for racing or running on a sports track. [1905-10]  
 track/ suit/ or track/suit/, *n.* a sweat suit worn by athletes.



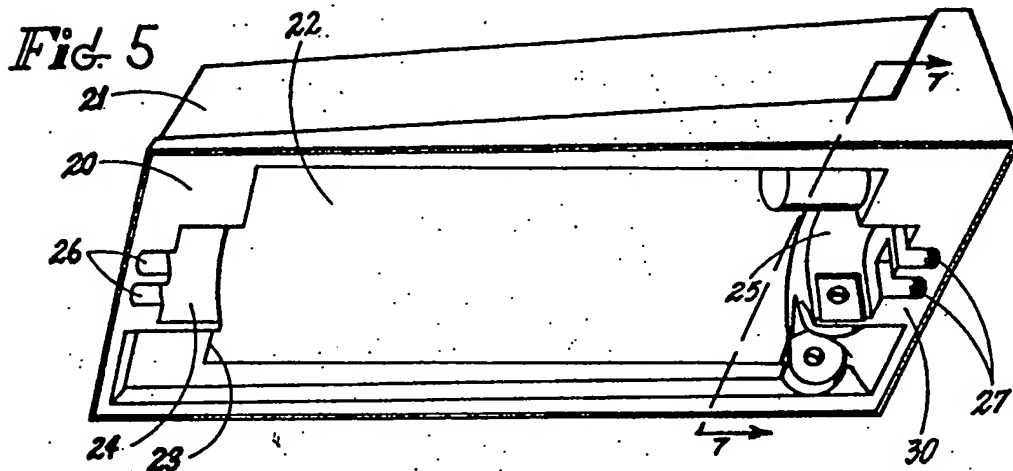
## FLUORESCENT LENS



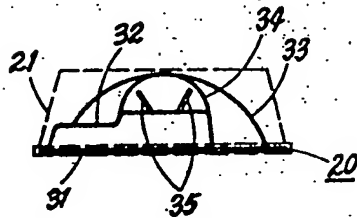
Track lighting. Myriad fittings are available for track lighting—from standard lights to spotlights to chandeliers. The lights also come in different designs to match most decors.



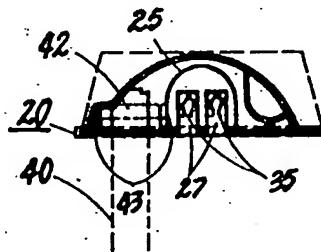
Simplicity. You can buy a plug-in track lighting kit that eliminates the need to make wiring connections. Or you can buy track that must be connected to a wired ceiling or junction box.



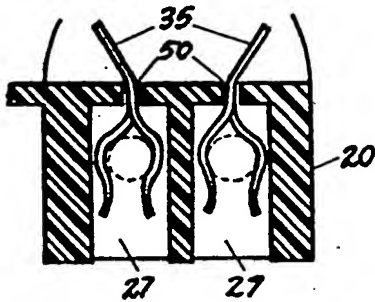
**Fig. 6**



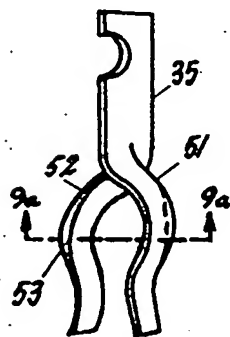
**Fig. 7**



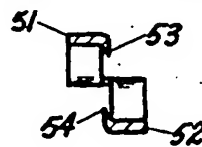
**Fig. 8**



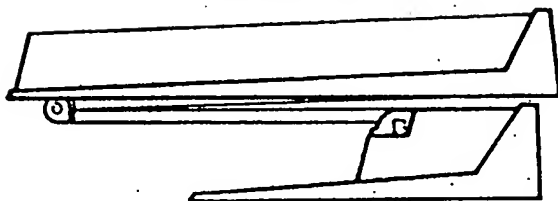
**Fig. 9**



**Fig. 9a**



**Fig. 10**



INVENTORS  
 JACK Y. MILLER  
 RONALD W. FROELICH